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Chapter 246-272A WAC – Onsite Sewage Systems
Supplemental Proposal – May 24-June 22, 2005

Comment	Proposed DOH Response	Commenter
<p>I am a retired resident of Admiral Cove on Whidbey Island. I just paid twenty thousand dollars to have a new sand filtered septic system with pumps and alarms on both the tanks and the sand filter plus 100 percent reserve area. This new regulation puts an unnecessary heavy burden on people to contract for annual tank inspections and the like. Septic tanks have been around for centuries and only a small number ever have a problem so why do you feel it necessary to do "blanket" coverage. The latest code requirements are very strict and costly to install so why burden everyone when only a few may have problems and those are likely to be old systems not new ones. I could see maybe an inspection every 5 to 10 years but every year is ridiculous. There aren't enough inspectors to begin to keep up with a requirement like this and you're lucky if you can get anyone to even do a perk test for new systems let alone annual inspections for thousands. Please think about the implications of what you are proposing before initiating a program like this.</p>	<p>Regular operation and maintenance inspections are the best way to ensure that systems are functioning properly and protecting public health. As systems become more complex, the need for regular inspections increases. In addition to protecting public health, these inspections save homeowners money and protect their investment because small problems can be addressed before expensive repairs are needed. Also, the inspections can be done by a service provider or a homeowner.</p>	<p>Douglas G. Smith</p>
<p>Section 246-272A-0320 – <i>Developments, Subdivisions, and Minimum land area requirements.</i></p> <p>The original proposal increased the minimum sizes for lots with public water supplies to 0.5 acre. The supplemental proposal returns to the current rule requirements of 12,500 sq. ft.– 22,000 sq. ft., depending on soil type. The local health officer may require larger lots in areas where the local health officer identifies nitrogen as a contaminant of concern.</p> <p>Perusing the current regulations, I find under 246-272-20501 4 (c) that the Health Officer may require larger land areas or lot sizes to achieve public health protection. Under 246-272-21501 (2) the Health Officer may require larger land area for new developments in Areas of Special Concern. With this all-encompassing wording already in regulation, I fail to see why we need to add this new section and tie it down to Nitrogen contamination only. It seems</p>	<p>Nitrogen is a public health concern. Although it may be somewhat redundant, this clause clearly states the health officer's ability to address nitrogen through increased lot sizes.</p>	<p>Stephen Wecker</p>

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like just dropping this section and allowing the current regulations handle Nitrogen concern issues to make the most sense. In light of this, could you please explain why we need this new section? I look forward to the response.		
I like the changes to the proposed WAC changes! Good Job!	Thank you for your comments.	Lynda Hickok
<p>The Walla Walla County Health Department is very much against the recent changes to the lot size requirements contained in the most recent supplemental. First, any lot size less than 1/2 acre makes it very difficult to locate the original and replacement drainfields with all required setbacks. Also, it is our understanding that the original change to require 1/2 acre was made to reduce nitrate contamination as requested by DOE. Second, requiring 2 acres in soil type 5 when using individual wells is simply overkill. Soil type 5 silt-loam soils in Walla Walla County treat very well and one acre provides ample space for design of the system. In summary, we are requesting that you return to the original lot size proposal of 1/2 acre with public water and one acre with individual wells. These were recommended by the TRC and the committee.</p> <p>Last week I sent an e-mail to all of the Environmental Health Directors asking whether they preferred the lot sizes recommended by the Rule Development Committee or the lot sizes contained in the recent supplemental. As of today, I have received 10 responses - 4 west and 6 east. All responses preferred the RDC recommendations. The onsite regulations are meant to protect the public health and the RDC spent a lot of time discussing the lot size issue. We recommend that the Board return to the lot sizes as proposed by the RDC.</p>	Local health officers have the authority to increase minimum lot sizes to protect public health.	Dave Eaton, Environmental Health Director, Walla Walla
I cannot begin to express the depth of my opposition to rules which will now require yearly inspections of residential sewage systems at owner expense. Based on the DOH's own report, the evidence for the need for this new intrusion into the pocketbooks of home owners is tenuous at best. I will be contacting my legislators and	Regular operation and maintenance inspections are the best way to ensure that systems are functioning properly and protecting public health. As systems become more complex, the need for regular inspections increases. In addition to	Larry Vander Griend

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<p>asking in the strongest possible terms that they move to stop this unnecessary exercise in red tape if the DOH will not.</p>	<p>protecting public health, these inspections save homeowners money and protect their investment because small problems can be addressed before expensive repairs are needed. Also, the inspections can be done by a service provider or a homeowner.</p>	
<p>The Washington Association of REALTORS appreciates the work that has gone into the revision of four sections of the proposed rules. We generally support these revisions, particularly those dealing with the transfer of maintenance records and minimum lot size. However we remain concerned that the cost of this public benefit is going to be borne by a relatively small number of homeowners, and that implementation of these proposed regulations will in fact impact the viability of otherwise buildable lots.</p>	<p>DOH and SBOH have tried to minimize any instances where existing lots could become unbuildable as a result of the rule changes. Over the past 20 years, technology has greatly increased the number of lots available to be built with an on-site sewage system. However, there are some lots that may not be adequate to support an on-site sewage system.</p>	<p>Larry Stout Assistant Director Washington Association of REALTORS</p>
<p>Section 246-272A-0015</p> <ul style="list-style-type: none"> For the sake of clarity and consistency, BIAW would like to see the language of 246-272A-0015(1)(b) mirrored in (c). The revised sentence in (c) would read: “Identify operation, maintenance and monitoring requirements, commensurate with <u>public health</u> risks posed by OSS...” BIAW remains concerned about the ability of local health department to meet the demands of this section, even with funding provided in the '05-'07 state budget. <p>Section 246-272A-0234</p> <ul style="list-style-type: none"> BIAW appreciates the Board’s willingness to allow existing lots to have a smaller drainfield size if a higher level of treatment is used. However, this flexibility should be allowed for all lots created before and after rule implementation. Given that a higher level of treatment is required, and thus no negative impact will occur, this flexibility will allow local health officers comply with local comprehensive plans, avoid potential takings litigation, and provide the assurances required by WAC 2246-272A-0015(1)(i). 	<ul style="list-style-type: none"> The public health nature of these rules is stated in the Purpose section, -0001 and does not need to be restated here. In addition to the funding for planning provided by the Legislature, DOH will be providing guidance to those local health jurisdictions that will be required to complete the most detailed plans. This change was made to ensure that existing lots would not become unbuildable as a result of the rule changes. For new lots, smaller drainfields will be available with higher treatment, but these lots must still have the required drainfield area available to protect public health in case a repair is needed. Thank you for your comments 	<p>Jodi Slavik, Building Industry Association of Washington</p>

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<p>Section 246-272A-0270</p> <ul style="list-style-type: none"> BIAW supports the changes proposed in 246-272A-0270(1)(k). The proposed amendment eliminates unnecessary paperwork and confusion, particularly in new home sales. <p>Section 246-272A-0320</p> <ul style="list-style-type: none"> BIAW supports the reinstatement of existing minimum lot sizes in Table X. Requiring larger lots was unfounded and damaging to thousands of property owners, small business owners, and local governments. However, the additional language under (2)(i) is vague and confusing. This additional language needs to cite a specific process (and associated WAC and/or RCW) by which the local health officer will identify nitrogen as a concern, including the process by which the area in which the affected property lies will be delisted. The amended language, with question raised, reads as follows: “However, the local health officer may require larger lot sizes (How large?) where (Will a specific area be listed and recorded?) the local health officer has identified nitrogen as concern either through planning activities described in section - 0015 or another process (What other processes? Provide specific citation. How is an area delisted?) Without this level of specificity, property owners, builders, and developers cannot plan for a project, not develop a permit or bank financing application, with certainty as to the lot size allowed. BIAW proposes that the Board strike the proposed amendatory language and maintain the proposed revisions in Table X. 	<ul style="list-style-type: none"> The local health officer already has authority to require larger lots on a site-by-site basis wherever public health protection is needed. A specific process of delineation is not necessary. Nitrogen is a public health concern and this reference makes that clear. 	
<p>Washington has satisfied almost all CZARA requirements. The only significant hurdle that remains is having an on-site disposal management program that meets the national management measures. Specifically, within the State’s Coastal Nonpoint Program management area (everything within Watershed Resource Inventory Areas 1-25) we believe there are only two things the state must do to make Washington’s OSS system compliant with the</p>	<p>(1) Some counties already require a qualified individual to complete inspections. DOH will pursue the availability of qualified O&M professionals with other counties. DOH will also be working to enable each LHJ to provide homeowner education opportunities.</p>	<p>Tom Eaton, Director Washington Operations Office, USEPA</p>

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<p>national measures:</p> <ul style="list-style-type: none"> (1) Periodic inspections must be conducted by a qualified individual. (2) The state must establish a program to encourage the widespread use of denitrifying systems for new and existing development where nitrogen loadings from OSS may adversely impact the environment. 	<p>(2) The local health officer has authority to require denitrifying systems where nitrogen is a contaminant of concern. DOH is publishing a report on nitrogen reduction technologies and strategies.</p>	
<p>As you read this, there are many failing Septic systems in Thurston County and around Puget Sound that pollute and harm our fresh and marine waters. The laws and rules now in place do not adequately protect our water. These waterways are a valuable environmental and economic resource and belong to everyone. When the water is harmed, we all are harmed.</p> <p>To highlight the serious nature of this problem, the Washington State Department of Health recently announced closure of an additional 49 acres of shellfish beds in Henderson Inlet because of excessive amounts of fecal coliform bacteria. The closure took place in late June because the high fecal bacteria levels exceed state and federal water quality standards and indicate the presence of human sewage.</p> <p>Also, typical septic systems do not remove nitrogen or phosphorus, two nutrients that when in excess, lead to very low oxygen levels in water and are responsible for much of the problems in our local waters including Hood Canal.</p> <p>A recent letter (April 26, 2005) from Janice Adair, Assistant Secretary WA DOH to the WA Board of Health indicates WA State is currently out of compliance with the federal Coastal Zone Act Reauthorization Amendment (CZARA) since the federal act requires qualified individuals inspect septic systems and issues like control of nitrogen release into marine waters must be part of the state program.</p>	<p>Thank you for your comments. DOH believes these new rules will improve public health by increasing the frequency of O&M inspections for many types of on-site systems. The Department also hopes to begin an outreach program to help local health departments and homeowners learn how to appropriately care for and inspect their systems.</p> <p>These rules also address nitrogen for the first time by asking local health departments to evaluate their jurisdictions to identify areas that are more at risk from on-site systems. If the local health officers determines that nitrogen is a contaminate of concern in an area, a product meeting the new nitrogen reduction standard can be required.</p>	<p>Paul Allen, MD</p>

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<p>Currently homeowners can inspect their own septic tanks using the honor system. There is no limit on the amount of nitrogen or phosphorus discharged.</p> <p>Parcels with plat applications completed and filed before the new rules are put in place will grandfather in under the existing but inadequate rules even if construction starts after the new improved rules are in effect. This grandfathering limits the effectiveness of the new rules.</p> <p>This is not adequate in this day and age of dying waterways.</p> <p>Our state and local elected officials need to act now before it is too late.</p> <p>The county and cities need the authority to inspect septic systems and require repair or improvement if needed. Low interest loans provided by the government agencies would aid most homeowners in paying for the needed repairs. (See rule file for entire letter)</p>		
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